

LEGAL DIVISION



The **LEGAL DIVISION** provides legal advice and representation for the Department. This Division consists of a General Counsel, two staff attorney positions, and a paralegal.

The Department's lawyers advise the Commissioner and departmental personnel in all legal matters affecting the Department. They work with regulated entities and the general public in addressing legal issues. They also work closely with the Governor's Office and the Tennessee General Assembly on legislative issues affecting financial institutions. The Legal Division also assists in the coordination of enforcement initiatives with other federal and state regulators as well as with various law enforcement agencies.

The Legal Division was heavily involved in the 1999 Legislative session as the Department's legislative liaison by tracking numerous bills, working closely with the Governor's Office, the General Assembly, and other groups sponsoring legislation which impacted the Department. The Department's initiative to update the regulation of fiduciary activities of financial institutions was enacted in 1999. This Division provided assistance to our operating divisions on such issues as interstate branching and trust operations, bank applications, Y2K contingencies, money transmitter issues, check cashing, deferred presentment, illegal ATMs, credit union field of membership policy, and bank sales of insurance. The Legal Division is significantly involved in the day-to-day decision making process of the Department.

1999 LEGISLATION

Public Chapter 14

Chapter 255 of the Public Acts of 1997 created a regulatory system to supervise those entities engaged in the deferred presentment services business otherwise known as the "pay day" advance industry. Chapter 255 of the Public Acts of 1997 provided that this Act is repealed at 12:01 a.m. on October 1, 1999. Chapter 14 of the Public Acts of 1999 deletes the repeal provision in order to continue the operation and regulation of the deferred presentment services industry.

Effective Date-March 17, 1999.

Public Chapter 112

Chapter 112 of the Public Acts of 1999 was an Administration bill to modernize the operation and regulation of trust institutions in Tennessee. Specifically, it permits interstate trust activity with other states on a reciprocal basis. Public Chapter 112 clarifies what constitutes authorized trust activity in Tennessee and provides for a streamlined regulatory scheme for private trust companies which do not conduct business with the general public. It eliminates shell bank charters for those banks or trust companies that do not engage in business for 2 years.

Effective Date- July 1, 1999.

Public Chapter 143

Chapter 143 of the Public Acts of 1999 amends the Tennessee Title Pledge Act by requiring that a title pledge lender furnish a borrower with a statement either sent by first class mail within 5 days of any renewal period or hand delivered at the time of renewal. This statement must include: the agreement number, the annual percentage rate, the monthly fee rate, the original principal balance of the loan, and renewal fees. The statement must also include the payoff balance, including the exact date through which the payoff will be honored. Moreover, the statement must also contain the phone number, the normal business hours of operation and the primary contact person at the office of the title pledge lender.

Effective Date-May 12, 1999.

Public Chapter 144

Public Chapter 144 enacts the Tennessee Creditor-Placed Insurance Act of 1999. This law creates a legal framework within which "creditor placed insurance" may be written in this state, maintains the separation between creditors and insurers, and minimizes unfair competition practices in this area.

Effective Date-October 2, 1999.

Public Chapter 168

Public Chapter 168 amends the Banking Act, T.C.A., Title 45, Chapter 2, part 19, concerning credit card state banks. Under prior law, a credit card state bank was authorized to engage only in credit card operations. Public Chapter 168 authorizes credit card state banks to make consumer loans as well as commercial loans provided that the credit card state bank's charter permits or is amended to permit that activity.

Effective Date-May 17, 1999.

Public Chapter 172

Chapter 172 of the Public Acts of 1999 authorizes Industrial Loan and Thrift Company registrants supervised by the Department under T.C.A., Title 45, Chapter 5, to offer to borrowers individual term life and accidental death and dismemberment insurance, provided that the beneficiary is someone other than the creditor, the insurance is purchased as a part of the credit transaction and the premium is included in the principal of the loan. As a separate issue, Public Chapter 172 permits the collection of a larger fee on delinquent loans-specifically, the greater of 5 cents on the dollar or \$10.00.

Effective Date-May 14, 1999.

Public Chapter 194

Public Chapter 194 amends T.C.A., Section 45-2-907 concerning remedies for non-payment of safety deposit box rentals.

Effective Date-May 19, 1999.

Public Chapter 378

This law, which provides protection to Tennesseans against adverse consequences resulting from the Y2K computer problem, creates the "Year 2000 Citizens Protection Act". Specifically, this law provides for a "60 day" curing period during which time any legal action by a creditor against a person is suspended- provided that the person has notified the creditor that the person's default results from a computer's failure to make the Y2K change. If the cure is not complete within 60 days, then legal action can resume, but damages that may be collected are limited.

This law does not effect the bringing of an enforcement action by a government agency against the entities it regulates. The law contains different procedures for child support cases.

Effective Date-June 14, 1999 (repealed December 31, 2001).